

REMARKS/ARGUMENTS

Prior to the entry of this amendment, claims 1-26 were pending in this application. Claims 1, 14, 17, 21, and 23-25 are amended herein. No new claims are added and no claims are canceled. Therefore, claims 1-26 remain pending in the application. Applicant respectfully requests reconsideration of these claims for at least the reasons presented below.

Informalities

The Office Action has objected to claim 24 as being indefinite. Applicant has amended claim 24 to correct this informality.

35 U.S.C. §102(e) Rejection, Grimes

The Office Action has rejected claims 1-15, 18 and 23 under 35 U.S.C. §102(e) as being anticipated by U. S. Patent Publication No. US 2002/0002674 to Grimes et al. (hereinafter Grimes). The Applicant respectfully submits the following arguments pointing out significant differences between claims 1-15, 18 and 23 submitted by the Applicant and Grimes.

Grimes "is related to access to secure or restricted content, and more particularly to the management of digital rights to secure or restricted rich media and multimedia content available over high bandwidth connections." (page 1, para. 3) Grimes discloses "a method for digital rights management includes receiving content at a client computer. The content is encrypted with an encryption key. The method further includes the client computer requesting the encryption key from a digital rights management (DRM) server using a digital certificate, the DRM server receiving the request and the DRM server determining if the digital certificate is valid." (page 1, para. 10) Under Grimes, content is distributed to the client from servers of the Network Operations Center (NOC) via the Internet Service Provider (ISP) or from the ISP itself. (page 2, para. 22-25; FIG. 1;page 3, para. 29; FIG. 2B; and page 4, para. 38) The DRM server of

Grimes generates and distributes keys used by the servers of the NOC to encrypt and the client to decrypt the content. (page 4, para. 40 and page 4, para. 43 - page 5, para. 45)

However, Grimes does not disclose an origin server for providing program content or a caching server for storing a copy of content distributed by the origin server. Further, Grimes does not disclose using such a caching server to determine whether the client is entitled to receive content originally distributed by the origin server. Rather, the DRM server of Grimes only generates and distributes keys used to encrypt and decrypt content supplied by other servers and does not distribute content. Furthermore, under Grimes, the servers supplying the content only use the keys supplied by the DRM server to encrypt the content and do nothing to check whether the client is authorized to receive the content.

Claim 1, upon which claims 2-13 depend is directed to a method for distributing program content in a network having an origin server for providing said program content, a client operable for communicating with said origin server across said network, and a caching server operable for storing a copy of said program content distributed by said origin server and recites in part "using the caching server to compare said rule to a record describing at least one entitlement characteristic of said client, wherein said at least one entitlement characteristic comprises data for use by the caching server to authenticate said client so as to determine whether said client is entitled to receive said program content before authorizing the distribution of a key to said client for decrypting said program content wherein said caching server stores a copy of said program content originally provided to said network by said origin server." Grimes does not disclose using the caching server to compare a rule to a record describing at least one entitlement characteristic of the client or authenticating the client so as to determine whether the client is entitled to receive the program content. Rather, Grimes teaches a DRM server that only generates and distributes keys used to encrypt and decrypt content supplied by other servers where these servers only use the keys supplied by the DRM server to encrypt the content and do nothing to check whether the client is authorized to receive the content. For at least these reasons, claims 1-13 are distinguishable from Grimes and should be allowed.

Claim 14, upon which claims 15 and 18 depend, is directed to a method for distributing program content in a network having an origin server for providing said program content, a client operable for communicating with said origin server across said network, and a caching server operable for storing a copy of said program content distributed by said origin server and recites in part "allowing said client to request said program content from said origin server; receiving at said origin server a request from said client for said program content; and formatting a data record comprising an identifier to identify to the caching server said program content and said rule for said program content, the rule for use by the caching server to determine whether said client is entitled to receive said program content." Grimes does not disclose formatting a data record comprising an identifier to identify to the caching server program content and a rule for the program content for use by the caching server to determine whether the client is entitled to receive said program content. Rather, Grimes teaches a DRM server that only generates and distributes keys used to encrypt and decrypt content supplied by other servers where these servers only use the keys supplied by the DRM server to encrypt the content and do nothing to check whether the client is authorized to receive the content. For at least these reasons, claims 15 and 18 are distinguishable from Grimes and should be allowed.

Claim 23 is directed to a method for distributing program content in a network having an origin server for providing said program content, a client operable for communicating with said origin server across said network, and a caching server operable for storing a copy of said program content distributed by said origin server and recites in part "receiving at the caching server a data record for said client for use in determining whether said client is entitled to said program content; receiving at the caching server a rule associated with said program content for use by said caching server so as to determine whether said client is entitled to said program content; utilizing said data record and said rule so as to determine by the caching server whether said client is entitled to said program content; and multicasting from the caching server said program content." Grimes does not disclose receiving at the caching server a data record for said client for use in determining whether said client is entitled to said program content, receiving at the caching server a rule associated with said program content for use by said caching server so

as to determine whether said client is entitled to said program content, and utilizing said data record and said rule so as to determine by the caching server whether said client is entitled to said program content. Rather, Grimes teaches a DRM server that only generates and distributes keys used to encrypt and decrypt content supplied by other servers where these servers only use the keys supplied by the DRM server to encrypt the content and do nothing to check whether the client is authorized to receive the content. For at least these reasons, claim 23 is distinguishable from Grimes and should be allowed.

35 U.S.C. §103(a) Rejection, Grimes in view of Wiser

The Office Action has rejected claims 16, 17, 19-22 and 24-26 under 35 U.S.C. §103(a) as being unpatentable over Grimes in view of U. S. Patent No. 6,385,596 to Wiser et al. (hereinafter Wiser). The Applicant respectfully submits that the Office Action does not establish a *prima facie* case of obviousness in rejecting these claims. Therefore, the Applicant requests reconsideration and withdrawal of the rejection.

In order to establish a *prima facie* case of obviousness, the Office Action must establish: 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine their teachings; 2) a reasonable expectation of success of such a modification or combination; and 3) a teaching or suggestion in the cited prior art of each claimed limitation. See MPEP §706.02(j).

As will be discussed below, the references cited by the Office Action do not teach or suggest each claimed limitation. The Office Action does not provide evidence that the suggestion or motivation to modify or combine the references cited is explicit or implicit in the references cited. Further, the Office Action does not provide any evidence that knowledge of one skilled in the art would provide the suggestion or motivation to modify these references.

Finally, the Office Action does not provide evidence of a reasonable expectation of success of such a modification or combination.

As discussed in detail above, Grimes does not teach or suggest an origin server for providing program content or a caching server for storing a copy of content distributed by the origin server. Further, Grimes does not teach or suggest using the caching server to determine whether the client is entitled to receive content originally distributed by the origin server. Rather, the DRM server of Grimes only generates and distributes keys used to encrypt and decrypt content supplied by other servers and does not distribute content. Furthermore, under Grimes, the servers supplying the content only use the keys supplied by the DRM server to encrypt the content and do nothing to check whether the client is authorized to receive the content.

Wiser is directed to "the online distribution of digital media data over public communication networks." (Col. 1, lines 8-9) Under Wiser, "the administration and management of all purchases and other transactions is handled primarily by the content manager, and the delivery of the purchased media content is provided by the delivery servers." (Col. 6, lines 32-35, see also, col. 3, lines 36-49 and col. 19, lines 15-43) Wiser does not teach or suggest an origin server for providing program content or a caching server for storing a copy of content distributed by the origin server. Further, Wiser does not disclose using the caching server to determine whether the client is entitled to receive content originally distributed by the origin server. Rather, Wiser teaches "separat[ing] the management and administration of the purchase of the media content from the delivery of that media content to purchasers." (Col. 6, lines 29-31)

Claim 14, upon which claims 15 and 18 depend, is directed to a method for distributing program content in a network having an origin server for providing said program content, a client operable for communicating with said origin server across said network, and a caching server operable for storing a copy of said program content distributed by said origin server and recites in part "allowing said client to request said program content from said origin

server; receiving at said origin server a request from said client for said program content; and formatting a data record comprising an identifier to identify to the caching server said program content and said rule for said program content, the rule for use by the caching server to determine whether said client is entitled to receive said program content." Neither Grimes nor Wiser, alone or in combination, teach or suggest allowing the client to request program content from the origin server, receiving at the origin server the request from the client for the program content, and formatting a data record comprising an identifier to identify to the caching server the program content and the rule for the program content, the rule for use by the caching server to determine whether the client is entitled to receive the program content. Rather, Grimes teaches a DRM server that only generates and distributes keys used to encrypt and decrypt content supplied by other servers where these servers only use the keys supplied by the DRM server to encrypt the content and do nothing to check whether the client is authorized to receive the content. Wiser actually teaches away from allowing the client to request program content from the origin server, receiving at the origin server the request from the client for the program content, and formatting a data record comprising an identifier to identify to the caching server the program content and the rule for the program content, the rule for use by the caching server to determine whether the client is entitled to receive the program content by teaching "separating the management and administration of the purchase of the media content from the delivery of that media content to purchasers." For at least these reasons, claims 16, 17, and 19-22 should be allowed.

Claim 23, upon which claims 24-26 depend, is directed to a method for distributing program content in a network having an origin server for providing said program content, a client operable for communicating with said origin server across said network, and a caching server operable for storing a copy of said program content distributed by said origin server and recites in part "receiving at the caching server a data record for said client for use in determining whether said client is entitled to said program content; receiving at the caching server a rule associated with said program content for use by said caching server so as to determine whether said client is entitled to said program content; utilizing said data record and

said rule so as to determine by the caching server whether said client is entitled to said program content; and multicasting from the caching server said program content." Neither Grimes nor Wiser, alone or in combination, teach or suggest receiving at the caching server a data record for the client for use in determining whether the client is entitled to program content, receiving at the caching server a rule associated with the program content for use by the caching server so as to determine whether the client is entitled to the program content, and utilizing the data record and the rule so as to determine by the caching server whether the client is entitled to the program content. Rather, Grimes teaches a DRM server that only generates and distributes keys used to encrypt and decrypt content supplied by other servers where these servers only use the keys supplied by the DRM server to encrypt the content and do nothing to check whether the client is authorized to receive the content. Wiser actually teaches away from receiving at the caching server a data record for the client for use in determining whether the client is entitled to program content, receiving at the caching server a rule associated with the program content for use by the caching server so as to determine whether the client is entitled to the program content, and utilizing the data record and the rule so as to determine by the caching server whether the client is entitled to the program content by teaching "separating the management and administration of the purchase of the media content from the delivery of that media content to purchasers." For at least these reasons, claims 24-26 should be allowed.

In summary, the combination of Grimes and Wiser is no more relevant to either reference taken alone since neither Grimes nor Wiser, alone or in combination, teaches or suggests an origin server for providing program or a caching server for storing a copy of content distributed by the origin server. Further, the references, alone or in combination, do not teach or suggest using the caching server to determine whether the client is entitled to receive content originally distributed by the origin server. Rather, Grimes teaches a DRM server that only generates and distributes keys used to encrypt and decrypt content supplied by other servers where these servers only use the keys supplied by the DRM server to encrypt the content and do nothing to check whether the client is authorized to receive the content while Wiser teaches separating the management and administration of the purchase of the media content from the

Appl. No. 10/007,121
Amdt. dated: September 21, 2005
Reply to Office Action of June 21, 2005

PATENT

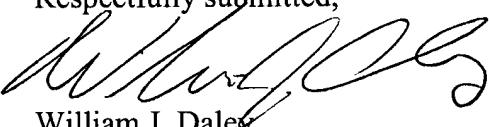
delivery of that media content to purchasers. For at least these reasons, claims 16, 17, 19-22 and 24-26 are allowable over the combination of Grimes and Wiser.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



William J. Daley
Reg. No. 52,471

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000 (Denver)
Fax: 303-571-4321 (Denver)

WJD:sbm
60579816 v1